

HOUSE BILL 3289
By Kernell

AN ACT to amend Tennessee Code Annotated, Title 63
and Title 71, relative to enacting the "Community
Choices Act of 2006."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Community Choices Act of 2006".

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following new section:

71-5-149.

(a) The comptroller of the treasury shall quantify the amount appropriated to an individual with an approved pre-admission evaluation (PAE) for TennCare/Medicaid long term care services for either intermediate care facility for the mentally retarded (ICF/MR) services or for level 1 or level 2 nursing facility, and the amount equal to that amount shall be used for the services needed for that individual to live in the community.

(b) Any recipient with an approved PAE for TennCare/Medicaid coverage for either intermediate care facility for the mentally retarded (ICF/MR) services or for level 1 or level 2 nursing facility services shall be given the choice to transition out of the institutional placement by having the money follow the person out of the appropriate institutional budget and be placed in the Home and Community Based Services Budget (HCBS) for that individual to receive HCBS.

(c) The individual shall have service delivery options that shall include but are not limited to, vouchers, agencies with choice, fiscal intermediaries, direct cash and other service delivery systems that may be developed by the state.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is further amended by adding the following new section:

71-5-150.

(a) The bureau of TennCare shall develop and implement a statewide waiver that meets the following criteria. The criteria shall include but is not limited to the range and character of services under the current statewide waivers and integrated into the current statewide system of health maintenance activities. Health maintenance activities include but are not limited to, administration of medications by oral, rectal, vaginal, otic, ophthalmic, nasal, skin, topical, transdermal and gastrostomy tube routes, feedings through a tube, surface care of stoma sites, irrigation of catheter, bowel maintenance and wound care if such activities in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home.

(b) The bureau of TennCare shall seek to modify the current statewide waivers or to implement a statewide waiver that includes a continuum of service delivery models which also allows fiscal intermediary and cash and counseling models to be used by the consumer.

SECTION 4. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is further amended by adding the following new section:

71-5-151.

Any recipient with an approved pre-admission evaluation (PAE) for TennCare/Medicaid long term care services of either intermediate care facility for the mentally retarded (ICF/MR) services or for level 1 or level 2 nursing facility services and who is to transition out of the institutional setting into the community and who qualifies for federal department of housing and urban development (HUD) assistance or tenant

based vouchers assistance but is placed on a waiting list shall be given three thousand six hundred dollars (\$3,600) per year per individual (three hundred dollars (\$300) per month) as a housing subsidy until such person enrolls in a HUD program.

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is further amended by adding the following new section:

71-5-152.

(a) A relocation system shall be funded by TennCare to provide targeted case management with either grants, state contracts or fee for services to pay local community based organizations (CBO's), to identify individuals in ICF/MR facilities and nursing homes that wish to move into the community and to provide institution to community transition services which include but are not limited to, the coordination of the service and support package that an individual needs to be moved out of the institution.

(b) To assist with identification, the State shall provide upon request to each CBO the complete CMS Q1-A Data for their service area.

(c) Each individual receiving institution to community relocation services will be granted a transition cost allowance of two thousand dollars (\$2,000) for items such as, but not limited to, first months rent, deposits, kitchen appliances, furniture and household items. The transition cost allowance will be locally administered by the CBO providing the nursing home transition services.

(d) Quality assurances will be done by the community based organization using measures from consumer evaluations of the service provider.

SECTION 6. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is further amended by adding the following amendatory section:

71-5-153.

() A consumer advisory board shall be organized and funded by the department of TennCare. This advisory board shall be selected by the governor. All advisory board members shall be recipients of waivers and/or institution to the community relocation services. The advisory board will consist of five (5) members of each of the three (3) regions of Tennessee. Meetings will be held quarterly with travel, room, board, and attendant services paid for by the state to bring board members together. At the first board meeting of each year the deputy commissioner of TennCare in consultation with the advisory board will provide a written report to the governor, the general assembly and the advisory board. This report will include but is not limited to recommendations from the advisory board, how many people have moved out of the institutional setting, and consumer evaluations of the CBO's institution to the community relocation services.

SECTION 7. Tennessee Code Annotated, Section 71-5-130, is amended by adding the following as a new subsection:

(c) In determining the amount of payment to be made to nursing homes under this chapter, the comptroller of the treasury shall exclude, and shall not recognize as a reimbursable cost, any amounts paid, whether as dues, contributions, assessments, or otherwise, to any trade association which lobbies on behalf of such nursing homes or the industry to which they belong; provided, however, that the reasonable cost of educational programs purchased from such trade association may be recognized and reimbursed, to the extent that the home is able to document that such costs do not exceed the fair market value of such programs.

SECTION 8. Tennessee Code Annotated, Section 63-7-102, is amended by adding the following amendatory language as a new subdivision:

(11) Under the statewide waiver systems, the performance of health maintenance activities, when that procedure is delegated by a licensed nurse, within the

reasonable exercise of independent nursing judgment and is performed with reasonable skill and safety by that person under the supervision of a registered professional nurse or a licensed practical nurse. Health maintenance activities include, but are not limited to, administration of medications by oral, rectal, vaginal, otic, ophthalmic, nasal, skin, topical, transdermal and gastrostomy tube routes, feedings through a tube, surface care of stoma sites, irrigation of catheter, bowel maintenance and wound care if such activities in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home.

SECTION 9. This act shall take effect July 1, 2006, the public welfare requiring it